

UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA

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DEAN RHOADS,

Plaintiff,

Case No. \_\_\_\_\_

v.

CNH INDUSTRIAL LLC,

Defendant.

**Former District Court of Hall  
County, Nebraska No.  
D08C1220000573**

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant CNH INDUSTRIAL AMERICA LLC<sup>1</sup> (“CNH”), by its counsel Lowell Blackham of Quarles & Brady LLP, hereby removes this civil action from the District Court of Hall County, Nebraska, to the to the United States District Court for the District of Nebraska, pursuant to 28 U.S.C. §§ 1441 and 1446, on the following grounds:

**BACKGROUND**

1. On or about July 28, 2022, Plaintiff Dean Rhoads (“Rhoads”) filed a Complaint in the District Court of Hall County, Nebraska, Case No. D08C1220000573, naming CNH as the sole Defendant. A copy of the Plaintiff’s Complaint is attached hereto as Exhibit A.

2. CNH received a copy of the complaint on September 29, 2022, when CNH was served with a copy of the complaint and summons via mail. A copy of the Summons is attached hereto as Exhibit B.

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<sup>1</sup> The correct name of the Defendant is CNH Industrial America LLC.

3. Thirty days has not expired from the date that CNH was served with a copy of the Summons and Complaint and removal is thus timely under 28 U.S.C. § 1441(b).

4. Since Plaintiff filed his July 28, 2022, Complaint, there have been no further proceedings for this matter in the District Court of Hall County, Nebraska.

5. Removal to this Court is proper because the District of Nebraska encompasses Hall County, where this action was filed. 42 U.S.C. § 1441(a).

6. Pursuant to 28 U.S.C. § 1994(d), CNH is filing this Notice with this Court, serving a copy of this Notice upon Rhoads's counsel and filing a copy in the District Court of Hall County, Nebraska.

#### **BASIS FOR FEDERAL QUESTION JURISDICTION**

7. This Court has subject matter jurisdiction over Plaintiff's FMLA claim under 28 U.S.C. § 1331, which states that "the district courts shall have original jurisdiction of all civil actions arising under the . . . laws . . . of the United States."

8. Identifying that "this cause of action arises under the federal Family Medical Leave Act, 29 USC 2601, et al.," the Complaint alleges that CNH interfered with Rhoads's ability to take FMLA leave and retaliated against him for exercising his rights under FMLA. (Ex. A at p. 1, ¶ 4 and p. 3 ¶ 23-24). The Complaint demands "all available relief from this court and a trial by jury to determine the rights and liabilities of all parties." (Ex. A at p. 4).

9. The Complaint states only causes of action arising under federal law. *See Franchise Tax Bd. v. Constr. Laborers Vacation Tr. for S. California*, 463 U.S. 1, 10 (1983) ("a defendant may not remove a case to federal court unless the *plaintiff's* complaint establishes that the case 'arises under' federal law") (emphasis in original).

10. Accordingly, this action satisfies the requirement for federal jurisdiction under 28 U.S.C. § 1331 because the claims state a federal question and no state law question.

11. CNH is entitled to remove this suit to this Court because the court has original jurisdiction over both claims and because removal to this court is proper. 28 U.S.C. § 1441(a).

12. The undersigned certifies that a copy of this Notice of Removal has been filed with the District Court of Hall County, Nebraska and served on the Plaintiff contemporaneous with its filing in this court, as required by 28 U.S.C. § 1446(d).

WHEREFORE, CNH removes this action from the District Court of Hall County, Nebraska to this United States District Court for the District of Nebraska.

Dated: October 28, 2022.

QUARLES & BRADY LLP

*s/ Lowell Blackham*

Lowell Blackham

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*Attorneys for Defendant*

*CNH Industrial LLC*

### **CERTIFICATE OF SERVICE**

I, Lowell Blackham, an attorney of record, hereby certify that on October 28, 2022, I caused the foregoing Notice of Removal to be electronically filed with Clerk of the Circuit Court of the Hall District Court, Nebraska, using the Nebraska Judicial Branch eFiling system, which will serve all parties of record at their email addresses on file with the Court. I also delivered a copy of the foregoing via U.S. mail and courtesy e-mail to:

Jon Rehm  
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*Attorney for Plaintiff*

/s/ Lowell Blackham